

Docket No.: 04110/0201116-USO
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yoshio Ishii et al.

Application No.: 10/813,558

Confirmation No.: 4103

Filed: March 29, 2004

Art Unit: 3746

For: VACUUM CONTROL SYSTEM

Examiner: L. J. Weinstein

PETITION TO CORRECT INVENTORSHIP PURSUANT TO 37 C.F.R. 1.48(A)

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.48(a), it is respectfully requested that the inventorship of the above-identified application be corrected by deleting Kozo Shirato as an inventor. Because Kozo Shirato has refused to cooperate with the assignee of this application, submitted herewith is a Petition under Rule 183 to suspend Rule 48(a)(2) which requires a statement by him that the inventorship error occurred without deceptive intention on her part. The actual inventors of the presently claimed subject matter are Yoshio Ishii, Koji Tanemura and Toshihiko Matsumoto.

This Petition is supported by:

1. Declaration of Kozo Shirato as an inventor to be deleted (This Declaration has not been executed by Kozo Shirato);
2. Petition under 37 § C.F.R. 1.183 to suspend Rule 48(a)(2) for a Declaration from Kozo Shirato;

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3. Declaration of Yoshio Ishii (discussing the pertinent facts of Kozo Shirato's refusal to sign the Declaration of Kozo Shirato);
4. Declaration of Yoshio Ishii, Koji Tanemura and Toshihiko Matsumoto as required by 37 C.F.R. § 1.63
5. Supplemental Application Data Sheet;
6. Consent of assignee, ERC, Inc. (assignee of Yoshio Ishii, Koji Tanemura and Toshihiko Matsumoto);
7. Fee Transmittal;
8. Processing Fee Transmittal; and
9. Payment in the amount of \$130.00 covering the processing fee set forth in 37 C.F.R. § 1.17(I) is enclosed. The Commissioner is authorized to charge any deficiency of up to \$300.00 or credit any excess in the fee due with this submission to Deposit Account No. 04-0100.

In view of the foregoing, it is respectfully requested that the Patent and Trademark Office delete Kozo Shirato as an inventor.

Dated: February 8, 2010

Respectfully submitted,

By 
Thomas J. Bean

Registration No.: 44,528
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant

Docket No.: 04110/0201116-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yoshio Ishii et al.

Application No.: 10/813,558

Confirmation No.: 4103

Filed: March 29, 2004

Art Unit: 3746

For: VACUUM CONTROL SYSTEM

Examiner: L. J. Weinstein

DECLARATION OF INVENTOR UNDER 37 CFR 1.48(A)(2)

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Kozo Shirato, a citizen of Japan, having a mailing address at Kamiaokinishi 4-3-26, Kawaguchi, Saitama Japan 333-0845, declare that:

1. The above-identified patent application presently names me as an inventor.
2. I have reviewed and am familiar with (a) the above-identified patent application as filed and (b) the pending claims in this application.
3. I am not an inventor of the subject matter presently claimed in the above-identified patent application.
4. The error in inventorship in the above-identified patent application occurred without deceptive intent on my part.

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Application No. 10/813,558
Declaration of Kozo Shirato

Docket No.: 04110/0201116-US0

It is further declared that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patents.

(Date) _____

Kozo Shirato

Docket No.: 04110/0201116-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yoshio Ishii et al.

Application No.: 10/813,558

Confirmation No.: 4103

Filed: March 29, 2004

Art Unit: 3746

For: VACUUM CONTROL SYSTEM

Examiner: L. J. Weinstein

PETITION UNDER 37 C.F.R. § 1.183

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition the U.S. Patent and Trademark Office under 37 C.F.R. §1.183 to suspend the requirements of 37 C.F.R. §1.48(a)(2), so that the accompanying Petition to Correct Inventorship can be granted without a statement from Mr. Kozo Shirato as required by 37 C.F.R. § 1.48(a)(2). Mr. Shirato has refused to make this statement. The pertinent facts are set forth in the accompanying Declaration of Yoshio Ishii. The last known address for Mr. Shirato is Kamiakinishi 4-3-26, Kawaguchi, Saitama Japan 333-0845.

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Application No. 10/813,558
Petition under 37 C.F.R. § 1.183 dated February 8, 2010

Docket No.: 04110/0201116-US0

In view of the foregoing, the undersigned respectfully requests that the requirements of 37 C.F.R. §1.48(a)(2) be suspended with respect to Mr. Kozo Shirato so that the accompanying Petition to Correct Inventorship can be granted.

Dated: February 8, 2010

Respectfully submitted,

By 

Thomas J. Bean

Registration No.: 44,528

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant

Docket No.: 04110/0201116-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yoshio Ishii et al.

Application No.: 10/813,558

Confirmation No.: 4103

Filed: March 29, 2004

Art Unit: 3746

For: VACUUM CONTROL SYSTEM

Examiner: L. J. Weinstein

DECLARATION OF YOSHIO ISHII

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Yoshio Ishii, General Manager Quality Assurance, ERC, Inc., located at 5-8-6, Nishi-aoki, Kawaguchi-City, Saitama, JAPAN, declare that:

1. Kozo Shirato was originally named an inventor on the above-identified patent application. Applicants have now determined that Mr. Shirato is not an inventor of the presently claimed subject matter.
2. Prior to this determination, Mr. Shirato sold his ownership interest as of February 10, 2005 in ERC, Inc. ("ERC") according to a Stock Transfer Agreement of February 10, 2005, and ceased his ongoing involvement with ERC as of February 10, 2006.
3. As discussed below, Mr. Shirato was contacted with a request to have him sign a statement to remove him as an inventor pursuant to 37 C.F.R. §1.48(a)(2), however, he has refused to sign this agreement.
4. On January 29, 2010, I instructed Mr. Toshizo Nozaki of ERC to forward a copy of a Declaration of Inventor under 37 CFR 1.48(A)(2) ("Declaration") to Mr. Shirato together with a letter from me asking Mr. Shirato to review and sign the Declaration. Upon

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Application No. 10/813,558
Declaration of Yoshio Ishii dated

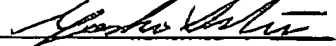
Docket No.: 04110/0201116-USO

information and belief, the letter and Declaration were mailed to Mr. Shirato on January 29, 2010 at his current residence (Kamiaokinishi 4-3-26, Kawaguchi, Saitama Japan 333-0845) via the Japan Post Service Co., Ltd. by registered and content-certified mail (Registration No.10275879795, Receipt No. 2010012916150800100000).

5. On February 3, 2010, I instructed Mr. Toshizo Nozaki of ERC to call Mr. Shirato by telephone to confirm that he had received the Declaration and letter, to request that he sign the Declaration, and to request that Mr. Shirato make an appointment for a date and time at which a representative of ERC would travel to Mr. Shirato's home to pick up the signed Declaration. Upon information and belief, Mr. Toshizo Nozaki reported back to me on February 3, 2010 that he had spoken with Mr. Shirato by telephone on this date, and that although Mr. Shirato had received the Declaration and letter, he had declined to sign the Declaration and to schedule a pick-up appointment.
6. It is further declared that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patents.

Dated: February 8, 2010

By:


Yoshio Ishii
General Manager Quality Assurance
ERC, Inc.

PTD/SB/106 (05-00)

Approved for use through 10/31/02. OMB 0651-0032
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Declaration and Power of Attorney for Patent Application

特許出願宣言書及び委任状

Japanese Language Declaration

日本語宣言書

私は、以下に記された発明者として、ここに下記の通り宣言する:

As a below named inventor, I hereby declare that:

私の住所、郵便の宛先として国籍は、私の氏名の後に記載された通りである。

My residence, post office address and citizenship are as stated next to my name.

下記の名称の発明について、特許請求範囲に記載され、且つ特許が求められている発明事項に関して、私は、最初、単独または共同の発明者である（唯一の氏名が記載されている場合）か、或いは最初、単独または共同の発明者である（複数の氏名が記載されている場合）と信じている。

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

VACUUM CONTROL SYSTEM

VACUUM CONTROL SYSTEM

上記発明の明細書はここに添付されているが、下記の箱がチェックされている場合は、この限りでない:

the specification of which is attached hereto unless the following box is checked:

☒ 03/29/2004 の日に出版され、☒ was filed on 03/29/2004

この出願の米国出願番号またはPCT国際出願番号は、

as United States Application Number or
PCT International Application Number

10/813,558 であり、且つ

10/813,558 and was amended on

の日に修正された出版（該当する場合）

(if applicable).

私は、上記の修正書によって修正された、特許請求範囲を含む上記明細書を検討し、且つ内容を理解していることをここに表明する。

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

私は、発明規則第37条規則1.56に定められている、特許性について適切な情報を開示する義務があることを認める。

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

PTO/SB/106 (05-00)

Approved for use through 10/31/02. OMB 0651-0032
Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Japanese Language Declaration

(日本語宣言書)

私は、ここに、以下に記載した外国での特許出願または発明者証の出願、或いは米国以外の少なくとも一国を指定している米国法第35条第335条(a)によるPCT国際出願について、同第119条(a)(4)項又は第35条(a)項に基づいて優先権を主張するとともに、優先権を主張する本出願の出願日より前の出願日を有する外国での特許出願または発明者証の出願、或いはPCT国際出願については、いかなる出願も、下記の枠内をチェックすることにより示した。

I hereby claim foreign priority under Title 35, United States Code Section 119(a)-(4) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365 (a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent, or inventor's certificate, or PCT International application having a filing date before that of the application for which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

外国での発行出願

優先権を主張する

2003-352286 (Number) (番号)	Japan (Country) (国名)	10/10/2003 (Day/Month/Year Filed) (出願日/月/年)	<input type="checkbox"/>
 (Number) (番号)	 (Country) (国名)	 (Day/Month/Year Filed) (出願日/月/年)	<input type="checkbox"/>

私は、ここに、下記のいかなる米国優先出願についても、その米国優先出願第119条(a)項の利益を主張する。

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below.

(Application No.) (出願番号)	(Filing Date) (出願日)
 (Application No.) (出願番号)	 (Filing Date) (出願日)

私は、ここに、下記のいかなる外国出願についても、その米国法第35条第119条(a)項に基づく利益を主張し、又米国を指定するいかなるPCT国際出願についても、その同第119条(a)項に基づく利益を主張する。また、本出願の発明者証請求の範囲の主題が、米国法第35条第119条(a)項に規定された範囲で、発行する米国出願又はPCT国際出願に開示されていない場合においては、その発行出願の出願日と本国内出願日またはPCT国際出願日との間の期間中に入手された情報で、本出願の出願日より前に開示された発明の性質に関わる重要な特徴について開示されていることを承認する。

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s), or 365(e) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code Section 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

(Application No.) (出願番号)	(Filing Date) (出願日)	(Status Patented, Pending, Abandoned) (出願：特許許可、係属中、放棄)
 (Application No.) (出願番号)	 (Filing Date) (出願日)	 (Status Patented, Pending, Abandoned) (出願：特許許可、係属中、放棄)

私は、ここに真実であると信じる事項に基く記述が真実であり、且つ信頼と信ずることに基づく記述が、真実であると信じられることを希望し、さらに、故意に虚偽の記述などを行った場合は、米国法第18条第1001条に於ける、罰金または拘禁、若しくはその両方により処罰され、またそのような故意による虚偽の記述は、本出願またはそれに基いて得られるいかなる特許も、その有効性に問題が生ずることとされた上で記述が行われたことを、ここに宣言する。

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

PTO/SB/106 (05-00)

Approved for use through 10/31/02. OMB 0651-0032
Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Japanese Language Declaration

(日本語宣言書)

委任状：私は本出願を審査する手続を行い、且つ米国特許関係庁との全ての業務を遂行するために、記名された発明者として、下記の弁護士及び/または弁理士を指名する。(氏名及び登録番号を記載すること)

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: (list name and registration number).

Attorneys associated with Customer Number 07278

Attorneys associated with Customer Number 07278

送付先住所

Address associated with Customer Number 07278

Send Correspondence to:

Address associated with Customer Number 07278

直接電話連絡先: (氏名及び電話番号)

Direct Telephone Calls to: (name and telephone number)

第一または第一発明者氏名 Yoshio Ishii	Full name of sole or first inventor Yoshio Ishii
発明者の署名 日付	Inventor's signature Date <i>Yoshio Ishii</i> Feb. 5, 2010
住所 Saitama-Ken, Japan	Residence Saitama-Ken, Japan
国籍 Japan	Citizenship Japan
郵便の宛先 c/o ERC Inc. 5-8-6, Nishi-aoki Kawaguchi-Shi, Saitama-Ken JAPAN	Post Office Address c/o ERC Inc. 5-8-6, Nishi-aoki Kawaguchi-Shi, Saitama-Ken JAPAN

第二共同発明者がいる場合、その氏名 Koji Tanemura	Full name of second joint inventor, if any Koji Tanemura
第二共同発明者の署名 日付	Second inventor's signature Date <i>Koji Tanemura</i> Feb. 5, 2010
住所 Saitama-Ken, Japan	Residence Saitama-Ken, Japan
国籍 Japan	Citizenship Japan
郵便の宛先 c/o ERC Inc. 5-8-6, Nishi-aoki Kawaguchi-Shi, Saitama-Ken JAPAN	Post Office Address c/o ERC Inc. 5-8-6, Nishi-aoki Kawaguchi-Shi, Saitama-Ken JAPAN

(第三以下の共同発明者についても同様に記載し、署名をすること)

(Supply similar information and signature for third and subsequent joint inventors.)

SUPPLEMENTAL INVENTOR SHEET (PTO/SB/106)

Toshihiko Matsumoto		Full name of third joint inventor, if any	
発明者の署名	日付	Toshihiko Matsumoto	
		Inventor's signature	Date
		<i>Toshihiko Matsumoto</i>	Feb. 5, 2010
住所		Residence	
Saitama-Ken, Japan		Saitama-Ken, Japan	
国籍		Citizenship	
Japan		Japan	
郵便の宛先		Post Office Address	
c/o ERC Inc. 5-8-6, Nishi-noki Kawaguchi-Shi, Saitama-Ken JAPAN		c/o ERC Inc. 5-8-6, Nishi-noki Kawaguchi-Shi, Saitama-Ken JAPAN	

		Full name of fourth joint inventor, if any	
発明者の署名	日付	Inventor's signature	Date
住所		Residence	
国籍		Citizenship	
郵便の宛先		Post Office Address	

		Full name of fifth joint inventor, if any	
発明者の署名	日付	Inventor's signature	Date
住所		Residence	
国籍		Citizenship	
郵便の宛先		Post Office Address	

		Full name of sixth joint inventor, if any	
発明者の署名	日付	Inventor's signature	Date
住所		Residence	
国籍		Citizenship	
郵便の宛先		Post Office Address	

Supplemental Application Data Sheet**Application Information**

Application number::	10/813,558
Filing Date::	03/29/04
Application Type::	Regular
Subject Matter::	Utility
Suggested classification::	417/044.100
Suggested Group Art Unit::	3746
CD-ROM or CD-R?::	None
Sequence submission?::	None
Computer Readable Form (CRF)?::	No
Title::	VACUUM CONTROL SYSTEM
Attorney Docket Number::	041110/0201116-US0
Request for Early Publication?::	No
Request for Non-Publication?::	No
Suggested Drawing Figure::	Fig. 1
Total Drawing Sheets::	2
Small Entity?::	Yes
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

Applicant Information

Applicant Authority Type::	Inventor
Primary Citizenship Country::	Japan
Status::	Full Capacity
Given Name::	Yoshio
Family Name::	Ishii
City of Residence::	Saitama-Ken
Country of Residence::	Japan
Street of mailing address::	c/o ERC Inc. 5-8-6, Nishi-aoki, Kawaguchi-Shi
City of mailing address::	Saitama-Ken
Country of mailing address::	Japan

Applicant Authority Type::	Inventor
Primary Citizenship Country::	Japan
Status::	Full Capacity
Given Name::	Koji
Family Name::	Tanemura
City of Residence::	Saitama-Ken
Country of Residence::	Japan
Street of mailing address::	c/o ERC Inc. 5-8-6, Nishi-aoki, Kawaguchi-Shi
City of mailing address::	Saitama-Ken
Country of mailing address::	Japan

Applicant Authority Type::	Inventor
Primary Citizenship Country::	Japan
Status::	Full Capacity
Given Name::	Toshihiko
Family Name::	Matsumoto
City of Residence::	Saitama-Ken
Country of Residence::	Japan

Street of mailing address:: c/o ERC Inc.
5-8-6, Nishi-aoki, Kawaguchi-Shi
City of mailing address:: Saitama-Ken
Country of mailing address:: Japan

Applicant Authority Type:: Inventor
Primary Citizenship Country:: Japan
Status:: Full Capacity
Given Name:: Kozo
Family Name:: Shirato
City of Residence:: Saitama-Ken
Country of Residence:: Japan
Street of mailing address:: c/o ERC Inc.
5-8-6, Nishi-aoki, Kawaguchi-Shi
City of mailing address:: Saitama-Ken
Country of mailing address:: Japan

Correspondence Information

Correspondence Customer Number:: 07278

Representative Information

Representative Customer Number:: 07278

Domestic Priority Information**Foreign Priority Information**

Country::	Application number::	Filing Date::	Priority Claimed::
Japan	2003-352286	10/10/03	Yes

Assignee Information

Assignee name:: ERC, Inc.
Street of mailing address:: 5-8-6, Nishi-aoki
Kawaguchi-City
City of mailing address:: Saitama
Country of mailing address:: Japan

Docket No.: 04110/0201116-US0
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yoshio Ishii et al.

Application No.: 10/813,558

Confirmation No.: 4103

Filed: March 29, 2004

Art Unit: 3746

For: VACUUM CONTROL SYSTEM

Examiner: L. J. Weinstein

**CONSENT OF ASSIGNEE TO CORRECT INVENTORSHIP IN A PATENT
APPLICATION PURSUANT TO 37 C.F.R. § 1.48(a)**

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

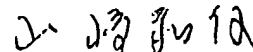
Sir:

The assignee of the above-identified patent application (as recorded at reel/frame number 023903/0933), ERC, Inc. Ltd., a corporation having offices and doing business in Japan with a mailing address at 5-8-6, Nishi-aoki, Kawaguchi-City, Saitama, JAPAN, by the undersigned authorized signatory, hereby consents and agrees to the Correction of Inventorship under 37 C.F.R. §1.48(a) submitted concurrently herewith.

ERC, Inc.

Dated: February 8, 2010

By:



Name: Kazutoshi Yamazaki

Title: Chief Executive Officer

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